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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------|---------------------|------------------|
| 10/763,784 | 01/23/2004 | Robert Scott Appleton | 72211 | 7922 |
| 27975 | 7590 | 06/21/2006 | EXAMINER | |
| ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791 | | | MARTINEZ, DAVID E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2181 | |

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/763,784 | APPLETON ET AL. | |
| | Examiner David E. Martinez | Art Unit 2181 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,4 is/are allowed. *part 6/20/2006*
- 6) Claim(s) 7 and 9 is/are rejected.
- 7) Claim(s) 8 and 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 May 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Fritz Fleming
FRITZ FLEMING
 Supervisory PRIMARY EXAMINER *6/20/2006*
 GROUP 2100
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Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application Publication No. US 2002/0142813 A1 to Cassidy et al. (hereinafter Cassidy).

1. With regards to claim 7, Cassidy teaches for use with a signal processing system [fig 1 element 2] having a default hardware configuration and an associated default operational functionality, and including a motherboard [fig 1 inside element 2, embedded elements on a motherboard] that contains a main processing unit [fig 1 element 4] and associated memory [fig 1 elements 5 and 6] that contains default system control software, which defines said default operational functionality for said signal processing system and is executed by said main processing unit of said motherboard [paragraph 26], so as to control said default hardware configuration and associated default operational functionality of said signal processing system, in the absence of a daughtercard being inserted into a daughtercard receptacle that is coupled with said main processing unit, a method of changing the hardware configuration and operational functionality of said signal processing system from said default hardware configuration and associated default operational functionality to a different hardware configuration and a different system operational functionality, said method comprising the steps of:

(a) providing said daughtercard with on-board hardware [fig 1 SIM card element inserted into element 10], that is in addition to and different from hardware contained in said default

hardware configuration of said signal processing system, and on-board memory, that contains replacement system control software defining said different system operational functionality and which, when executed by said main processing unit of said motherboard in place of said default system control software, is effective to control said different system operational functionality, including operation of said on-board hardware of said daughtercard [paragraph 26 – see the last sentence on page 2 going into page 3 to end of paragraph 26 – the data stored in the SIM being executed by the motherboard microprocessor element 7]; and

(b) in response to said daughtercard being coupled with said receptacle, causing said main processing unit of said motherboard to execute said replacement system control software contained in said on-board memory of said daughtercard, in place of said default system control software contained in said associated memory of said motherboard, and thereby cause said signal processing system to acquire said different hardware configuration and system operational functionality, so that said main processing unit of said motherboard controls said different system operational functionality, including operation of said on-board hardware of said daughtercard, exclusively by way of said replacement system control software contained in said on-board memory of said daughtercard [paragraphs 7, 12, 27, 35-36].

2. With regards to claim 9, it is of the same scope as claim 1 above and thus rejected under the same rationale.

Allowable Subject Matter

Claims 1 and 4 are allowed over the prior art of record.

Claims 8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record alone or in combination fail to teach or fairly suggest the on-board hardware of the daughtercard being a telecommunication transceiver by way of which a motherboard communicated with telecommunication equipment under test.

Response to Arguments

Applicant's arguments filed 5/31/06 have been fully considered but they are not persuasive.

With regards to the arguments directed to claims 7-10, in page 10 – third paragraph, the Examiner respectfully disagrees. Cassidy et al. (hereinafter Cassidy) discloses in paragraph 26 how the daughtercard (the SIM) comprises a processor, and memory storing “subscriber related data” and applications. Cassidy then goes on to disclose how the data stored in the SIM is used by the motherboard microprocessor element 7 to enable the telephone to communicate on the appropriate network, and then shows that data stored in the SIM is also to control, modify, or monitor the operation of the telephone in a conventional manner. In Paragraph 27, Cassidy then shows how the motherboard uses the replacement software stored in the SIM card (the software being executed by processor element 7) in place of its basic operating software controlling the overall operation of the system.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Martinez whose telephone number is (571) 272-4152. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fritz M. Fleming can be reached on 571-272-4145. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DEM

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